

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 10TH JANUARY 2007 / 20TH PAUSHA 1928

INSURANCE APPEAL .No. 3 of 2004()

ICA.1/2002 of EMPLOYEES' INSURANCE COURT, ALAPPUZHA
.....

APPELLANT/OPPOSITE PARTY

THE E.S.I.CORPORATION,
PANCHADEEP BHAVAN,
N.S..ROUND, THRISSUR-20.

BY ADV. SRI.P. SANKARANKUTTY NAIR

RESPONDENT/ APPELLANT

P.V.GOPI,
INS.NO.54-317010,
VELIYIL VEEDU, WARD NO.XIV,
MANNANCHERY PANCHAYAT.

BY ADV. SRI.S. VINODKUMAR
ADV. SRI.K.P.MEHABOOB SHERIEFF

THIS INSURANCE APPEAL HAVING COME UP FOR ADMISSION
ON 10/01/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.T. SANKARAN, J.

.....
INSURANCE APPEAL No. 3 OF 2004
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Dated this the 10th January, 2007

J U D G M E N T

Respondent, a toddy tapper attached to the Toddy Shop No. 24 of Mannancherry, who is an employee covered under the E.S.I. Scheme, met with an accident in course of his employment on 24.06.1998.. The respondent fell down from a coconut tree . He was treated in the Medical College Hospital, Alappuzha. A medical certificate dated 08.12.1999 was issued which shows that the respondent herein was totally disabled to continue his work as a toddy tapper. The case of the respondent was referred to the E.S.I. Medical Board for fixing the disability. The Medical Board after examining the respondent, fixed the liability at 60%. After six months, he was again examined by the Medical Board and finally fixed the disability at 60%. I.C.A. No. 1 of 2002 was filed by the respondent challenging the decision of the Medical Board.

2. The appellant herein contended that the respondent was examined by the Medical Board and permanent disability was fixed at 60%. It was contended that the opinion of the doctor who happened to

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treat the respondent for a short duration cannot be given much evidentiary value. The only evidence available before the court below was the evidence of the respondent. It was noticed in the judgment that the respondent could not stand properly in the witness box. After considering the evidence of the respondent, the court below came to the conclusion that the respondent is unable to continue his work as a toddy tapper. No evidence was adduced by the appellant. It was also noticed by the court below that it is doubtful whether rehabilitation would be possible in the case of the respondent as he cannot move about without the support of another person. Taking note of the physical condition of the respondent, the Employees' Insurance Court held that the disability is total. The conclusion of the Employees' Insurance Court is based on facts and evidence. There is no ground for interference in this Appeal.

Insurance Appeal is accordingly dismissed.

**K.T. SANKARAN,
JUDGE.**

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